

SENATE BILL No. 534

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3; IC 20-19-3-16; IC 20-43-2; IC 20-51-4-2; IC 20-52.

Synopsis: Special education scholarship account program. Establishes the Indiana special education scholarship account program (program). Requires the treasurer of state to administer the program. Establishes: (1) the special education scholarship account fund (fund); and (2) requirements and conditions for the program. Requires the department of education (department) to, on or before May 1 and January 1 of each year, provide the treasurer of state a list of the names of students with disabilities who require special education and for whom an individualized education program has been developed. Provides that any grant amount distributed to a taxpayer's Indiana special education scholarship account and used for qualified expenses under the program is not included in adjusted gross income for state income tax purposes. Provides that money transferred from a student's Indiana special education scholarship account to the student's college choice 529 education savings plan is not included as a contribution for purposes of a credit against a taxpayer's adjusted gross income tax. Requires the treasurer of state to: (1) annually request a parent of an eligible student or an emancipated eligible student who is participating in the program to complete a written survey; and (2) annually provide a summary of the survey to the governor and the legislative council. Continuously appropriates money from the fund and the accounts established within the fund for the purposes of the program.

Effective: July 1, 2017.

Raatz

January 17, 2017, read first time and referred to Committee on Education and Career Development.



First Regular Session 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

SENATE BILL No. 534

A BILL FOR AN ACT to amend the Indiana Code concerning education and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.181-2016,
- 2 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2017]: Sec. 3.5. When used in this article, the term "adjusted
- 4 gross income" shall mean the following:
- 5 (a) In the case of all individuals, "adjusted gross income" (as
- 6 defined in Section 62 of the Internal Revenue Code), modified as
- 7 follows:
- 8 (1) Subtract income that is exempt from taxation under this article
- 9 by the Constitution and statutes of the United States.
- 10 (2) Add an amount equal to any deduction or deductions allowed
- 11 or allowable pursuant to Section 62 of the Internal Revenue Code
- 12 for taxes based on or measured by income and levied at the state
- 13 level by any state of the United States.
- 14 (3) Subtract one thousand dollars (\$1,000), or in the case of a
- 15 joint return filed by a husband and wife, subtract for each spouse
- 16 one thousand dollars (\$1,000).
- 17 (4) Subtract one thousand dollars (\$1,000) for:



- 1 (A) each of the exemptions provided by Section 151(c) of the
- 2 Internal Revenue Code;
- 3 (B) each additional amount allowable under Section 63(f) of
- 4 the Internal Revenue Code; and
- 5 (C) the spouse of the taxpayer if a separate return is made by
- 6 the taxpayer and if the spouse, for the calendar year in which
- 7 the taxable year of the taxpayer begins, has no gross income
- 8 and is not the dependent of another taxpayer.
- 9 (5) Subtract:
- 10 (A) one thousand five hundred dollars (\$1,500) for each of the
- 11 exemptions allowed under Section 151(c)(1)(B) of the Internal
- 12 Revenue Code (as effective January 1, 2004);
- 13 (B) for taxable years beginning after December 31, 2017, one
- 14 thousand five hundred dollars (\$1,500) for each exemption
- 15 allowed under Section 151(c) of the Internal Revenue Code for
- 16 an individual:
- 17 (i) who is less than nineteen (19) years of age or is a
- 18 full-time student who is less than twenty-four (24) years of
- 19 age;
- 20 (ii) for whom the taxpayer is the legal guardian; and
- 21 (iii) for whom the taxpayer does not claim an exemption
- 22 under clause (A); and
- 23 (C) five hundred dollars (\$500) for each additional amount
- 24 allowable under Section 63(f)(1) of the Internal Revenue Code
- 25 if the adjusted gross income of the taxpayer, or the taxpayer
- 26 and the taxpayer's spouse in the case of a joint return, is less
- 27 than forty thousand dollars (\$40,000).
- 28 This amount is in addition to the amount subtracted under
- 29 subdivision (4).
- 30 (6) Subtract any amounts included in federal adjusted gross
- 31 income under Section 111 of the Internal Revenue Code as a
- 32 recovery of items previously deducted as an itemized deduction
- 33 from adjusted gross income.
- 34 (7) Subtract any amounts included in federal adjusted gross
- 35 income under the Internal Revenue Code which amounts were
- 36 received by the individual as supplemental railroad retirement
- 37 annuities under 45 U.S.C. 231 and which are not deductible under
- 38 subdivision (1).
- 39 (8) Subtract an amount equal to the amount of federal Social
- 40 Security and Railroad Retirement benefits included in a taxpayer's
- 41 federal gross income by Section 86 of the Internal Revenue Code.
- 42 (9) In the case of a nonresident taxpayer or a resident taxpayer



1 residing in Indiana for a period of less than the taxpayer's entire
 2 taxable year, the total amount of the deductions allowed pursuant
 3 to subdivisions (3), (4), and (5) shall be reduced to an amount
 4 which bears the same ratio to the total as the taxpayer's income
 5 taxable in Indiana bears to the taxpayer's total income.

6 (10) In the case of an individual who is a recipient of assistance
 7 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
 8 subtract an amount equal to that portion of the individual's
 9 adjusted gross income with respect to which the individual is not
 10 allowed under federal law to retain an amount to pay state and
 11 local income taxes.

12 (11) In the case of an eligible individual, subtract the amount of
 13 a Holocaust victim's settlement payment included in the
 14 individual's federal adjusted gross income.

15 (12) Subtract an amount equal to the portion of any premiums
 16 paid during the taxable year by the taxpayer for a qualified long
 17 term care policy (as defined in IC 12-15-39.6-5) for the taxpayer
 18 or the taxpayer's spouse, or both.

19 (13) Subtract an amount equal to the lesser of:

20 (A) two thousand five hundred dollars (\$2,500); or

21 (B) the amount of property taxes that are paid during the
 22 taxable year in Indiana by the individual on the individual's
 23 principal place of residence.

24 (14) Subtract an amount equal to the amount of a September 11
 25 terrorist attack settlement payment included in the individual's
 26 federal adjusted gross income.

27 (15) Add or subtract the amount necessary to make the adjusted
 28 gross income of any taxpayer that owns property for which bonus
 29 depreciation was allowed in the current taxable year or in an
 30 earlier taxable year equal to the amount of adjusted gross income
 31 that would have been computed had an election not been made
 32 under Section 168(k) of the Internal Revenue Code to apply bonus
 33 depreciation to the property in the year that it was placed in
 34 service.

35 (16) Add an amount equal to any deduction allowed under
 36 Section 172 of the Internal Revenue Code.

37 (17) Add or subtract the amount necessary to make the adjusted
 38 gross income of any taxpayer that placed Section 179 property (as
 39 defined in Section 179 of the Internal Revenue Code) in service
 40 in the current taxable year or in an earlier taxable year equal to
 41 the amount of adjusted gross income that would have been
 42 computed had an election for federal income tax purposes not



1 been made for the year in which the property was placed in
 2 service to take deductions under Section 179 of the Internal
 3 Revenue Code in a total amount exceeding twenty-five thousand
 4 dollars (\$25,000).

5 (18) Add an amount equal to the amount that a taxpayer claimed
 6 as a deduction for domestic production activities for the taxable
 7 year under Section 199 of the Internal Revenue Code for federal
 8 income tax purposes.

9 (19) Subtract an amount equal to the amount of the taxpayer's
 10 qualified military income that was not excluded from the
 11 taxpayer's gross income for federal income tax purposes under
 12 Section 112 of the Internal Revenue Code.

13 (20) Subtract income that is:

14 (A) exempt from taxation under IC 6-3-2-21.7; and

15 (B) included in the individual's federal adjusted gross income
 16 under the Internal Revenue Code.

17 (21) Add an amount equal to any income not included in gross
 18 income as a result of the deferral of income arising from business
 19 indebtedness discharged in connection with the reacquisition after
 20 December 31, 2008, and before January 1, 2011, of an applicable
 21 debt instrument, as provided in Section 108(i) of the Internal
 22 Revenue Code. Subtract the amount necessary from the adjusted
 23 gross income of any taxpayer that added an amount to adjusted
 24 gross income in a previous year to offset the amount included in
 25 federal gross income as a result of the deferral of income arising
 26 from business indebtedness discharged in connection with the
 27 reacquisition after December 31, 2008, and before January 1,
 28 2011, of an applicable debt instrument, as provided in Section
 29 108(i) of the Internal Revenue Code.

30 (22) Add the amount excluded from federal gross income under
 31 Section 103 of the Internal Revenue Code for interest received on
 32 an obligation of a state other than Indiana, or a political
 33 subdivision of such a state, that is acquired by the taxpayer after
 34 December 31, 2011.

35 **(23) Subtract the amount of an annual grant amount**
 36 **distributed to a taxpayer's Indiana special education**
 37 **scholarship account under IC 20-52 that is used for a qualified**
 38 **expense (as defined in IC 20-52-2-10), to the extent the**
 39 **distribution used for the qualified expense is included in the**
 40 **taxpayer's adjusted federal gross income under the Internal**
 41 **Revenue Code.**

42 (b) In the case of corporations, the same as "taxable income" (as



1 defined in Section 63 of the Internal Revenue Code) adjusted as
2 follows:

3 (1) Subtract income that is exempt from taxation under this article
4 by the Constitution and statutes of the United States.

5 (2) Add an amount equal to any deduction or deductions allowed
6 or allowable pursuant to Section 170 of the Internal Revenue
7 Code.

8 (3) Add an amount equal to any deduction or deductions allowed
9 or allowable pursuant to Section 63 of the Internal Revenue Code
10 for taxes based on or measured by income and levied at the state
11 level by any state of the United States.

12 (4) Subtract an amount equal to the amount included in the
13 corporation's taxable income under Section 78 of the Internal
14 Revenue Code.

15 (5) Add or subtract the amount necessary to make the adjusted
16 gross income of any taxpayer that owns property for which bonus
17 depreciation was allowed in the current taxable year or in an
18 earlier taxable year equal to the amount of adjusted gross income
19 that would have been computed had an election not been made
20 under Section 168(k) of the Internal Revenue Code to apply bonus
21 depreciation to the property in the year that it was placed in
22 service.

23 (6) Add an amount equal to any deduction allowed under Section
24 172 of the Internal Revenue Code.

25 (7) Add or subtract the amount necessary to make the adjusted
26 gross income of any taxpayer that placed Section 179 property (as
27 defined in Section 179 of the Internal Revenue Code) in service
28 in the current taxable year or in an earlier taxable year equal to
29 the amount of adjusted gross income that would have been
30 computed had an election for federal income tax purposes not
31 been made for the year in which the property was placed in
32 service to take deductions under Section 179 of the Internal
33 Revenue Code in a total amount exceeding twenty-five thousand
34 dollars (\$25,000).

35 (8) Add an amount equal to the amount that a taxpayer claimed as
36 a deduction for domestic production activities for the taxable year
37 under Section 199 of the Internal Revenue Code for federal
38 income tax purposes.

39 (9) Add to the extent required by IC 6-3-2-20 the amount of
40 intangible expenses (as defined in IC 6-3-2-20) and any directly
41 related interest expenses (as defined in IC 6-3-2-20) for the
42 taxable year that reduced the corporation's taxable income (as



defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.

(10) Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the Internal Revenue Code) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).

(11) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the corporation's taxable income under the Internal Revenue Code.

(12) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(13) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 832(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal



Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(10) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.



(11) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(12) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 832(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal



Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(10) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(11) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(12) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.



(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(7) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the taxpayer's taxable income under the Internal Revenue Code.

(8) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(9) Add the amount excluded from federal gross income under



Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

SECTION 2. IC 6-3-3-12, AS AMENDED BY P.L.181-2016, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. (a) As used in this section, "account" has the meaning set forth in IC 21-9-2-2.

(b) As used in this section, "account beneficiary" has the meaning set forth in IC 21-9-2-3.

(c) As used in this section, "account owner" has the meaning set forth in IC 21-9-2-4.

(d) As used in this section, "college choice 529 education savings plan" refers to a college choice 529 investment plan established under IC 21-9.

(e) As used in this section, "contribution" means the amount of money directly provided to a college choice 529 education savings plan account by a taxpayer. A contribution does not include any of the following:

(1) Money credited to an account as a result of bonus points or other forms of consideration earned by the taxpayer that result in a transfer of money to the account.

(2) Money transferred from any other qualified tuition program under Section 529 of the Internal Revenue Code or from any other similar plan.

(3) Money transferred from an Indiana special education scholarship account established under IC 20-52.

(f) As used in this section, "nonqualified withdrawal" means a withdrawal or distribution from a college choice 529 education savings plan that is not a qualified withdrawal.

(g) As used in this section, "qualified higher education expenses" has the meaning set forth in IC 21-9-2-19.5.

(h) As used in this section, "qualified withdrawal" means a withdrawal or distribution from a college choice 529 education savings plan that is made:

(1) to pay for qualified higher education expenses, excluding any withdrawals or distributions used to pay for qualified higher education expenses if the withdrawals or distributions are made from an account of a college choice 529 education savings plan that is terminated within twelve (12) months after the account is opened;

(2) as a result of the death or disability of an account beneficiary;



- (3) because an account beneficiary received a scholarship that paid for all or part of the qualified higher education expenses of the account beneficiary, to the extent that the withdrawal or distribution does not exceed the amount of the scholarship; or
- (4) by a college choice 529 education savings plan as the result of a transfer of funds by a college choice 529 education savings plan from one (1) third party custodian to another.

A qualified withdrawal does not include a rollover distribution or transfer of assets from a college choice 529 education savings plan to any other qualified tuition program under Section 529 of the Internal Revenue Code or to any other similar plan.

(i) As used in this section, "taxpayer" means:

- (1) an individual filing a single return; or
- (2) a married couple filing a joint return.

(j) A taxpayer is entitled to a credit against the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable year equal to the least of the following:

- (1) Twenty percent (20%) of the amount of the total contributions made by the taxpayer to an account or accounts of a college choice 529 education savings plan during the taxable year.
- (2) One thousand dollars (\$1,000).
- (3) The amount of the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

(k) A taxpayer who makes a contribution to a college choice 529 education savings plan is considered to have made the contribution on the date that:

- (1) the taxpayer's contribution is postmarked or accepted by a delivery service, for contributions that are submitted to a college choice 529 education savings plan by mail or delivery service; or
- (2) the taxpayer's electronic funds transfer is initiated, for contributions that are submitted to a college choice 529 education savings plan by electronic funds transfer.

(l) A taxpayer is not entitled to a carryback, carryover, or refund of an unused credit.

(m) A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this section.

(n) To receive the credit provided by this section, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is



necessary for the calculation of the credit provided by this section.

(o) An account owner of an account of a college choice 529 education savings plan must repay all or a part of the credit in a taxable year in which any nonqualified withdrawal is made from the account.

The amount the taxpayer must repay is equal to the lesser of:

(1) twenty percent (20%) of the total amount of nonqualified withdrawals made during the taxable year from the account; or

(2) the excess of:

(A) the cumulative amount of all credits provided by this section that are claimed by any taxpayer with respect to the taxpayer's contributions to the account for all prior taxable years beginning on or after January 1, 2007; over

(B) the cumulative amount of repayments paid by the account owner under this subsection for all prior taxable years beginning on or after January 1, 2008.

(p) Any required repayment under subsection (o) shall be reported by the account owner on the account owner's annual state income tax return for any taxable year in which a nonqualified withdrawal is made.

(q) A nonresident account owner who is not required to file an annual income tax return for a taxable year in which a nonqualified withdrawal is made shall make any required repayment on the form required under IC 6-3-4-1(2). If the nonresident account owner does not make the required repayment, the department shall issue a demand notice in accordance with IC 6-8.1-5-1.

(r) The executive director of the Indiana education savings authority shall submit or cause to be submitted to the department a copy of all information returns or statements issued to account owners, account beneficiaries, and other taxpayers for each taxable year with respect to:

(1) nonqualified withdrawals made from accounts of a college choice 529 education savings plan for the taxable year; or

(2) account closings for the taxable year.

SECTION 3. IC 20-19-3-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 16. The department shall, on or before May 1 and January 1 of each year, provide to the treasurer of state a list of the names of students with disabilities who require special education and for whom an individualized education program has been developed under IC 20-35.**

SECTION 4. IC 20-43-2-1, AS AMENDED BY P.L.205-2013, SECTION 268, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. **Except as provided in IC 20-52,** the department shall distribute the amount appropriated by the general



assembly for distribution as state tuition support in accordance with this article. If the appropriations for distribution as state tuition support are more than required under this article, any excess shall revert to the state general fund. The appropriations for state tuition support shall be made each state fiscal year under a schedule set by the budget agency and approved by the governor. However, the schedule must provide:

- (1) for at least twelve (12) payments;
- (2) that one (1) payment shall be made at least every forty (40) days; and
- (3) the total of the payments in each state fiscal year must equal the amount required under this article.

SECTION 5. IC 20-43-2-3, AS AMENDED BY P.L.213-2015, SECTION 208, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. If the total amount to be distributed:

- (1) as basic tuition support;
- (2) for honors diploma awards;
- (3) for complexity grants;
- (4) for special education grants;
- (5) for career and technical education grants;
- (6) for choice scholarships; ~~and~~
- (7) for Mitch Daniels early graduation scholarships; **and**
- (8) for Indiana special education scholarship accounts;**

for a particular state fiscal year exceeds the amounts appropriated by the general assembly for those purposes for the state fiscal year, the total amount to be distributed for those purposes to each recipient during the remaining months of the state fiscal year shall be proportionately reduced so that the total reductions equal the amount of the excess.

SECTION 6. IC 20-51-4-2, AS AMENDED BY P.L.211-2013, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) Subject to subsection (b) **and except as provided under subsection (c)**, an eligible choice scholarship student is entitled to a choice scholarship under this chapter for each school year beginning after June 30, 2011, that the eligible choice scholarship student enrolls in an eligible school.

(b) The department may not award more than:

- (1) seven thousand five hundred (7,500) choice scholarships for the school year beginning July 1, 2011, and ending June 30, 2012; and
- (2) fifteen thousand (15,000) choice scholarships for the school year beginning July 1, 2012, and ending June 30, 2013.



1 The department shall establish the standards used to allocate choice
2 scholarships among eligible choice scholarship students.

3 **(c) An eligible choice scholarship student is not entitled to a**
4 **choice scholarship under this chapter for a particular year if the**
5 **eligible choice scholarship student receives a grant under IC 20-52**
6 **into a special education scholarship account for the same school**
7 **year.**

8 SECTION 7. IC 20-52 IS ADDED TO THE INDIANA CODE AS
9 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
10 2017]:

11 **ARTICLE 52. INDIANA SPECIAL EDUCATION**
12 **SCHOLARSHIP ACCOUNT PROGRAM**

13 **Chapter 1. Application**

14 **Sec. 1. This article applies to a school year beginning after June**
15 **30, 2018, and each school year thereafter.**

16 **Chapter 2. Definitions**

17 **Sec. 1. The definitions in this chapter apply throughout this**
18 **article.**

19 **Sec. 2. "Account" refers to an Indiana special education**
20 **scholarship account established for an eligible student under this**
21 **article.**

22 **Sec. 3. (a) "Approved educational services provider" means a**
23 **person that:**

- 24 **(1) provides education or related services; and**
25 **(2) receives approval from the department under IC 20-52-5**
26 **to be eligible to receive payment for education or related**
27 **services from grant funds awarded to an eligible student**
28 **under this article.**

29 **(b) Except as provided in subsection (c), the term includes a**
30 **nonpublic school and a private tutor.**

31 **(c) The term does not include a:**

- 32 **(1) nonaccredited, nonpublic school; or**
33 **(2) parent providing instruction to the parent's own child.**

34 **Sec. 4. (a) "Approved postsecondary educational institution"**
35 **has the meaning set forth in IC 21-7-13-6(a).**

36 **(b) The term includes a state educational institution (as defined**
37 **in IC 21-7-13-32).**

38 **Sec. 5. "Eligible student" means an individual who meets the**
39 **eligibility requirements set forth in IC 20-52-3-3(a).**

40 **Sec. 6. "Financial institution" has the meaning set forth in**
41 **IC 28-1-1-3.**

42 **Sec. 7. "Grant funds" means the funds deposited by the**



1 treasurer of state into an eligible student's account in accordance
2 with IC 20-52-3-8.

3 Sec. 8. "Person" means an individual, a nonpublic school, a
4 corporation, a limited liability company, a partnership, or other
5 legal entity.

6 Sec. 9. "Program" refers to the Indiana special education
7 scholarship account program established by IC 20-52-3-1.

8 Sec. 10. (a) "Qualified expense" refers to any of the following
9 expenses related to the education of an eligible student:

10 (1) Tuition and fees for services provided by an approved
11 educational services provider.

12 (2) Payment for the purchase of curricular materials or any
13 supplemental materials required to administer the
14 curriculum.

15 (3) Tutoring services provided by an approved educational
16 services provider.

17 (4) Fees for transportation paid to a fee-for-service
18 transportation provider.

19 (5) Tuition or fees for a nonpublic online learning program or
20 course.

21 (6) Fees for:

22 (A) national norm referenced examinations;

23 (B) advanced placement examinations or similar courses;
24 and

25 (C) any examinations necessary for admission to an
26 approved postsecondary educational institution.

27 (7) Educational therapies or services provided by a person
28 licensed, certified, registered, or regulated in Indiana to
29 provide the educational therapies or services in accordance
30 with the eligible student's:

31 (A) individualized education program developed under
32 IC 20-35; or

33 (B) service plan developed under 511 IAC 7-34.

34 (8) Assessments and evaluations of an eligible student.

35 (9) Fees for education or related services provided by a public
36 school or charter school that:

37 (A) do not qualify the eligible student to be included in the
38 school corporation's ADM (as defined in IC 20-43-1-6) for
39 purposes of IC 20-43-4; and

40 (B) are not special education or related services that the
41 eligible student chooses to receive from a school
42 corporation as described in IC 20-52-3-7(a).



(10) Computer hardware or other technological devices approved by the treasurer of state, if the computer hardware or other technological device is used for the eligible student's educational needs.

(11) Subject to IC 20-52-3-9(b), contributions to:

(A) an account of a program that qualifies as a qualified state tuition program under Section 529 of the Internal Revenue Code established for the benefit of the eligible student;

(B) a Coverdell education savings account established under 26 U.S.C. 530 for the benefit of the eligible student; or

(C) an ABLE account (as defined in IC 12-11-14-1) established for the benefit of the eligible student.

(12) Tuition and fees at an approved postsecondary educational institution.

(13) Curricular materials required for courses in which the eligible student is enrolled at an approved postsecondary educational institution.

(14) Fees for the management of the account and the administration of the program, as described in IC 20-52-4-3 and IC 20-52-4-4.

(b) The term does not include:

(1) any educational or other services provided by a nonaccredited, nonpublic school;

(2) food; or

(3) child care before or after school or during school holidays or vacation.

Chapter 3. Establishment of the Indiana Special Education Scholarship Account Program

Sec. 1. The Indiana special education scholarship account program is established.

Sec. 2. The treasurer of state shall administer the program.

Sec. 3. (a) An individual is eligible to receive a grant award under the program if the individual:

(1) has legal settlement in Indiana;

(2) is at least five (5) years of age and less than twenty-two (22) years of age on the date in the school year specified in IC 20-33-2-7; and

(3) is a student who meets at least one (1) of the following:

(A) The student is identified as having a disability under Section 504 of the Rehabilitation Act, 29 U.S.C. 794.



(B) The student is a student with a disability who requires special education and for whom, within the last eighteen (18) months:

- (i) an individualized education program has been developed under IC 20-35; or**
- (ii) a service plan has been developed under 511 IAC 7-34.**

(b) Subject to section 14 of this chapter, an individual (who is not eligible under subsection (a)) is eligible to use funds in an account for qualified expenses if:

- (1) the account was established for the individual;**
- (2) the individual was an eligible student at the time the account was established for the individual; and**
- (3) the individual elects to keep the account open.**

Sec. 4. (a) A parent of an eligible student or an emancipated eligible student may, March 1 through September 1 of each year, enroll in the program for the upcoming school year.

(b) Except as provided under subsection (c), to enroll an eligible student in the program, a parent of the eligible student or an emancipated eligible student must:

- (1) apply for a special education scholarship account on a form supplied by the treasurer of state; and**
- (2) sign a written agreement prepared by the treasurer of state that includes the following:**

(A) A provision that the:

- (i) emancipated eligible student agrees that the emancipated eligible student will not receive; or**
- (ii) parent agrees that the parent will not receive on the eligible student's behalf;**

a choice scholarship under IC 20-51 for the school year in which the eligible student receives a grant under this article.

(B) Provisions agreeing to do all the following:

- (i) Provide an education for the eligible student in, at a minimum, the subjects of reading, grammar, mathematics, social studies, and science.**
- (ii) Use the grant funds deposited in the eligible student's account only for qualified expenses for the eligible student.**
- (iii) Notify the treasurer of state if the eligible student enrolls in a public school or charter school not later than ten (10) days after the date the student enrolls in the**



public school or charter school.

(iv) Notify the treasurer of state if the eligible student graduates from high school, receives a certificate of completion under the eligible student's individualized education program, or receives a high school equivalency diploma.

(c) If an eligible student is enrolled in the program in the immediately preceding school year, a parent of the eligible student or an emancipated eligible student may re-enroll in the program by signing a written agreement as described in subsection (b)(2). The parent or emancipated eligible student is not required to apply under subsection (b)(1) to re-enroll in the program.

(d) A parent of an eligible student may enter into a separate agreement under subsection (b) for each child of the parent who is an eligible student. However, not more than one (1) account may be established for each eligible student.

Sec. 5. An eligible student may not receive grant funds under this article if:

(1) the parent of the eligible student or the eligible student, if the eligible student is emancipated, does not apply for a special education scholarship account and sign an agreement in accordance with section 4 of this chapter; or

(2) the eligible student:

(A) receives a choice scholarship; or

(B) is enrolled in the school corporation as an eligible pupil for purposes of IC 20-43-4;

for the same school year for which the eligible student would receive a grant under this article.

Sec. 6. (a) If an eligible student is eligible to receive a grant under this article, the treasurer of state shall establish an account for the eligible student.

(b) Subject to subsection (d), the department shall transfer funds in the amount of the grant determined under subsection (c) to the treasurer of state for deposit in an account of the eligible student established by the treasurer of state under subsection (a).

(c) The amount of the grant that the department must transfer to the treasurer of state under subsection (b) is equal to the sum of the following:

(1) The last STEP of the following formula:

STEP ONE: Determine the school corporation in which the eligible student has legal settlement.

STEP TWO: Determine the amount of state tuition



support that the school corporation identified under STEP ONE is eligible to receive under IC 20-43 for the state fiscal year in which the current school year begins, excluding amounts provided for special education grants under IC 20-43-7.

STEP THREE: Determine the result of:

(A) the STEP TWO amount; divided by

(B) the current ADM (as defined in IC 20-43-1-10) for the school corporation identified under STEP ONE for the state fiscal year used in STEP TWO.

(2) If the eligible student chooses not to receive special education or related services from a school corporation required to provide the services to the eligible student under 511 IAC 7-34-1, the amount the school corporation would receive under IC 20-43-7 for the eligible student if the eligible student attended the school corporation.

(d) The department shall transfer grant funds to the treasurer of state as described in subsection (b) at least quarterly.

Sec. 7. (a) If an eligible student who:

(1) enrolls in the program; and

(2) is eligible to receive special education funds under IC 20-43-7;

chooses to receive special education or related services from a school corporation required to provide special education or related services to the eligible student under 511 IAC 7-34-1, the special education funds under IC 20-43-7 for that student will be made available to the school corporation where the student receives special education or related services.

(b) Notwithstanding 511 IAC 7-34-1(d)(4), a public school or charter school is not required to make available special education and related services to an eligible student if the eligible student receives grant funds under this article and chooses not to receive special education or related services from a school corporation. This subsection may not be construed as a restriction or limitation on any of the rights, benefits, and protections granted to an individual under the federal Individuals with Disabilities Education Improvement Act of 2004 (20 U.S.C. 1400 et seq.).

(c) A school corporation may not include an eligible student who receives an amount under section 6(c)(2) of this chapter in the school corporation's count under IC 20-43-7.

Sec. 8. The treasurer of state shall quarterly deposit the amount of the grant received by the treasurer of state from the department



under section 6 of this chapter into the eligible student's account.

Sec. 9. (a) Subject to subsection (b), grant funds received under this article for an eligible student may be used only for qualified expenses for the eligible student.

(b) A parent of an eligible student or an eligible student, if the eligible student is emancipated, may annually contribute to one (1) or more accounts described in IC 20-52-2-10(a)(11) not more than a total of ten percent (10%) of the amount of grant funds received by the eligible student under this article each state fiscal year.

Sec. 10. Upon entering into or renewing an agreement under this chapter, the treasurer of state shall provide to the parent of an eligible student or an emancipated eligible student a written explanation of the:

- (1)** authorized uses of the money in the account; and
- (2)** responsibilities of the parent or the emancipated eligible student and the responsibilities of the treasurer of state regarding an account established under this article.

Sec. 11. (a) Except as provided in section 4(c) and 4(d) of this chapter, an agreement entered into under section 4(b)(2) of this chapter:

- (1)** is valid for one (1) school year while the eligible student is in kindergarten through grade 12; and
- (2)** may be renewed annually.

(b) The money in an eligible student's account at the end of the school year remains in the account.

Sec. 12. (a) An agreement entered into under section 4(b)(2) of this chapter terminates automatically for an eligible student in kindergarten through grade 12 if the:

- (1)** eligible student no longer resides in Indiana while the eligible student is eligible to receive grant funds under this article;
- (2)** account is not renewed within one (1) year after the date the account was either established or last renewed; or
- (3)** eligible student enrolls full time in a public school or charter school.

(b) An agreement entered into under section 4(b)(2) of this chapter for an eligible student while the eligible student is in kindergarten through grade 12 may be terminated before the end of the school year if the parent of the eligible student or the emancipated eligible student notifies the treasurer of state in a manner specified by the treasurer of state.

(c) If an account terminates or is terminated under this section,



any amount of grant funds deposited under this article remaining in the eligible student's account reverts to the state general fund.

Sec. 13. If an individual who was an eligible student:

- (1) graduates;
- (2) receives a certificate of completion under the eligible student's individualized education program;
- (3) receives a high school equivalency diploma; or
- (4) no longer meets the eligibility requirements under section 3(a) of this chapter;

the individual is no longer eligible to receive a grant award under this article.

Sec. 14. Except as otherwise provided in this article, if an individual described in section 3(b) of this chapter has funds remaining in the individual's account, the parent of the individual or the individual:

- (1) may elect to keep the account open until:
 - (A) the money in the account is depleted;
 - (B) the account is terminated; or
 - (C) five (5) years after the date the individual:
 - (i) graduated;
 - (ii) received the certificate of completion under the individual's individualized education program;
 - (iii) received a high school equivalency diploma; or
 - (iv) no longer met the eligibility requirements under section 3(a) of this chapter;

whichever occurs first; and

- (2) if the parent or individual elects to keep the account open, shall annually renew the account by signing an agreement described in section 4(b)(2) of this chapter.

However, money in the account may not be used for anything other than qualified expenses for the individual.

Sec. 15. This article does not prohibit a parent of an eligible student or an emancipated eligible student from making a payment for any qualified expense from a source other than the eligible student's account.

Sec. 16. The parent of an eligible student or an emancipated eligible student is responsible for the payment of any education or related services or expenses, including tuition and fees for an approved educational services provider, that is not paid from the eligible student's account.

Sec. 17. Deposits made to an account under section 8 of this chapter may not be treated as income or as a resource for purposes



1 of qualifying for any other federal or state grant or program
2 administered by the state or a political subdivision.

3 Sec. 18. The treasurer of state shall publish, on the treasurer of
4 state's Internet web site, the following:

5 (1) The application form described in section 4(b)(1) of this
6 chapter.

7 (2) A list of approved educational services providers provided
8 to the treasurer of state by the department under
9 IC 20-52-5-7.

10 Sec. 19. The list of the names of students with disabilities who
11 require special education and for whom an individualized
12 education program has been developed under IC 20-35 provided
13 by the department to the treasurer of state under IC 20-19-3-16 is
14 confidential.

15 Sec. 20. (a) The treasurer of state shall adopt rules under
16 IC 4-22-2 necessary to administer this article.

17 (b) The treasurer of state may adopt emergency rules in the
18 manner provided under IC 4-22-2-37.1 to implement this article.

19 Chapter 4. The Special Education Scholarship Account Fund
20 and Accounts

21 Sec. 1. (a) The special education scholarship account fund is
22 established. The purpose of the fund is to provide education options
23 for students in Indiana with special education needs. The fund shall
24 be administered by the treasurer of state.

25 (b) The fund consists of the following:

26 (1) Appropriations by the general assembly.

27 (2) Amounts transferred to the treasurer of state from the
28 department under IC 20-52-3-6.

29 (3) Gifts, grants, and donations to the fund.

30 (4) Interest and other earnings derived from investment of
31 money in the fund.

32 (c) The treasurer of state shall establish an account within the
33 fund for each eligible student as provided under IC 20-52-3-6.

34 (d) The treasurer of state shall deposit the amount transferred
35 to the fund by the department under IC 20-52-3-6 into the account
36 of the eligible student.

37 (e) Subject to section 3 of this chapter, the expenses of
38 administering the fund may be paid from money in the fund.

39 (f) Except as provided in subsection (g), money in the fund at the
40 end of the state fiscal year does not revert to the state general fund.

41 (g) Any money that remains in an eligible student's account
42 established under subsection (c) upon the termination of an



1 agreement as provided under IC 20-52-3-12 reverts to the state
2 general fund.

3 (h) Money in the fund (and each account within the fund) is
4 continuously appropriated for the purposes of this article.

5 Sec. 2. The treasurer of state may contract with a financial
6 institution to administer and manage, with the supervision of the
7 treasurer of state, the special education scholarship accounts.

8 Sec. 3. The treasurer of state may deduct an amount of not more
9 than three percent (3%) from each quarterly distribution to
10 accounts under this article to cover the costs of managing the
11 accounts and administering the program.

12 Sec. 4. The treasurer of state may approve, based on market
13 rates, reasonable fees that a financial institution that manages the
14 accounts may charge.

15 Chapter 5. Providers of Education and Related Services

16 Sec. 1. It is the intent of the general assembly to honor the
17 autonomy of nonpublic schools, private tutors, or other providers
18 of education or related services that choose and are authorized to
19 become approved educational services providers under this article.
20 A nonpublic school, private tutor, or other provider of education
21 or related services is not an agent of the state or federal
22 government, and therefore:

23 (1) the treasurer of state, state board, department, or any
24 other state agency may not in any way regulate the
25 educational program of a nonpublic school, private tutor, or
26 other providers of education or related services that accept
27 money from an account under this article, including the
28 regulation of curriculum content, religious instruction or
29 activities, classroom teaching, teacher and staff hiring
30 requirements, and other activities carried out by the
31 nonpublic school, private tutor, or other providers of
32 education or related services;

33 (2) the creation of the program does not expand the
34 regulatory authority of the state or the state's officers to
35 impose additional regulation of nonpublic schools, private
36 tutors, or other providers of education or related services
37 beyond those necessary to enforce the requirements of the
38 program; and

39 (3) a nonpublic school, a private tutor, or other provider of
40 education or related services that is an approved educational
41 services provider may provide for the educational needs of
42 students without governmental control.



1 **Sec. 2.** A person that provides education or related services may
 2 apply to the department for approval on an application established
 3 under section 3 of this chapter to receive payment for services
 4 provided to an eligible student from grant funds awarded to the
 5 eligible student under this article.

6 **Sec. 3.** The state board shall establish standards that a person
 7 must meet to receive approval by the department under this
 8 chapter, including:

- 9 (1) an application for approval;
- 10 (2) the information that the person is required to submit to
- 11 the department; and
- 12 (3) criteria and standards for approval.

13 **Sec. 4. (a)** The department shall, not later than sixty (60) days
 14 after the department receives a person's application for approval,
 15 notify the person as to whether the person's application has been
 16 approved or denied.

17 (b) If the department denies a person's application, the
 18 department shall, at the time the department notifies the person of
 19 the denial, notify the person that the person may appeal the
 20 decision to the parent appeal board established by section 8 of this
 21 chapter and provide information to the person regarding the
 22 actions the person must take to appeal the department's decision.

23 **Sec. 5.** If a person meets the requirements established under
 24 section 3 of this chapter, the department shall approve the person
 25 for eligibility to receive payments for education or related services
 26 from grant funds distributed to an eligible student's account under
 27 this article.

28 **Sec. 6.** If the department denies approval to a person under this
 29 chapter, the person may appeal the decision to the parent appeal
 30 board established by section 8 of this chapter.

31 **Sec. 7.** The department shall:

- 32 (1) maintain a list, with names and contact information, of
- 33 persons that have been approved under this chapter;
- 34 (2) provide the list to the treasurer of state; and
- 35 (3) publish the list on the department's Internet web site.

36 **Sec. 8. (a)** The parent appeal board is established.

37 (b) The board consists of the following eight (8) members:

- 38 (1) The director of the division of special education of the
- 39 department.
- 40 (2) The following members appointed by the governor:
- 41 (A) A representative with legal expertise in the field of
- 42 special education.



1 **(B) Six (6) individuals who are parents of special education**
 2 **students.**

3 **(c) The members of the board appointed by the governor serve**
 4 **for a term of four (4) years. In case of a vacancy, the governor shall**
 5 **appoint an individual to serve the remainder of the unexpired**
 6 **term. The governor may remove a member appointed under**
 7 **subsection (b)(2) for cause.**

8 **(d) The board shall annually elect from its membership a**
 9 **chairperson.**

10 **(e) Members of the board may not receive a salary per diem and**
 11 **are not entitled to any reimbursement for mileage or any other**
 12 **expenses incurred by a member in participating on the board.**

13 **(f) The board shall establish procedures to govern an appeal by**
 14 **a person under section 6 of this chapter.**

15 **(g) The treasurer of state shall provide staff services for the**
 16 **board.**

17 **Sec. 9. An approved educational services provider:**

18 **(1) may not charge an eligible student participating in the**
 19 **program an amount greater than a similarly situated student**
 20 **who is receiving the same or similar services; and**

21 **(2) shall provide a receipt to a parent of an eligible student or**
 22 **an emancipated eligible student for each qualified expense**
 23 **charged for education or related services provided to the**
 24 **eligible student.**

25 **Sec. 10. (a) An approved educational services provider that**
 26 **receives a payment for a qualified expense may not:**

27 **(1) refund any part of the payment to the parent of an eligible**
 28 **student or an emancipated eligible student unless the refund**
 29 **is for an item that has been returned to the place of original**
 30 **purchase or is for an item or service that has not been**
 31 **provided by the approved educational services provider; or**

32 **(2) rebate or otherwise share any part of the payment with the**
 33 **parent of the eligible student or the emancipated eligible**
 34 **student who made the payment.**

35 **(b) A parent of an eligible student or an emancipated eligible**
 36 **student who receives a refund allowed under subsection (a)(1) shall**
 37 **deposit the refund into the account from which the money was**
 38 **paid.**

39 **Sec. 11. (a) The treasurer of state may refuse to allow an**
 40 **approved educational services provider to continue participation**
 41 **in the program and revoke the approved educational services**
 42 **provider's approval status under this chapter if the treasurer of**



1 state determines that the approved educational services provider
2 accepts payments made from an account under this article and:

3 (1) has failed to provide any education or related service that
4 is a qualified expense to an eligible student receiving
5 education or related services from the approved educational
6 services provider; or

7 (2) has routinely failed to meet the requirements of an
8 approved educational services provider under the program.

9 (b) If the treasurer of state revokes an approved educational
10 services provider's approval status, the treasurer of state shall
11 provide notice of the revocation not later than thirty (30) days after
12 the date of the revocation to each parent of an eligible student and
13 to each emancipated eligible student who paid the approved
14 educational services provider for qualified expenses from the
15 eligible student's account.

16 (c) A person that:

17 (1) provides education or related services; and

18 (2) has had the person's approval revoked under this chapter;
19 may apply for approval under this chapter not earlier than two (2)
20 years after the date of the revocation. The treasurer of state may
21 establish requirements that the person must meet before being
22 reapproved by the treasurer of state under this chapter.

23 Sec. 12. The state board shall adopt rules under IC 4-22-2 to
24 implement this chapter.

25 Chapter 6. Audits and Enforcing Compliance

26 Sec. 1. (a) The treasurer of state shall randomly audit or have
27 audited a sufficient number of accounts annually as needed to
28 ensure compliance with applicable law and the requirements of this
29 article.

30 (b) The treasurer of state may retain an independent public
31 accounting firm to annually audit accounts as provided under
32 subsection (a).

33 Sec. 2. The treasurer of state may freeze an eligible student's
34 account established under this article for:

35 (1) a violation of this article or law applicable to this article by
36 a parent of an eligible student or an emancipated eligible
37 student;

38 (2) failure to comply with the requirements of the program;
39 or

40 (3) the misuse of funds in the account;
41 by a parent of an eligible student or an emancipated eligible
42 student.



1 **Sec. 3. If the treasurer of state freezes an eligible student's**
 2 **account under this chapter, the treasurer of state shall provide**
 3 **written notice to the parent of the eligible student or the**
 4 **emancipated eligible student that includes all the following:**

5 **(1) A statement that the:**

6 **(A) eligible student's account has been frozen; and**

7 **(B) parent of the eligible student or the emancipated**
 8 **eligible student may not access or use the funds in the**
 9 **account.**

10 **(2) The reasons the account has been frozen.**

11 **(3) A statement that the parent of the eligible student or the**
 12 **emancipated eligible student has thirty (30) days to petition**
 13 **the treasurer of state to request that the treasurer of state**
 14 **reinstate the account.**

15 **Sec. 4. (a) If the treasurer of state does not receive a petition**
 16 **from a parent of an eligible student or an emancipated eligible**
 17 **student within the time established in section 3(3) of this chapter,**
 18 **the treasurer of state may:**

19 **(1) suspend the account for a specific time; or**

20 **(2) permanently close the account.**

21 **If the treasurer of state permanently closes the account, any grant**
 22 **funds remaining in the account revert to the state general fund.**

23 **(b) If an account is permanently closed under subsection (a), the**
 24 **eligible student is no longer eligible to participate in the program.**

25 **Sec. 5. (a) If the treasurer of state receives a petition from a**
 26 **parent of an eligible student or an emancipated eligible student**
 27 **within the thirty (30) days described in section 3(3) of this chapter,**
 28 **the treasurer of state shall:**

29 **(1) hold a hearing within thirty (30) days of the date the**
 30 **treasurer of state receives the petition;**

31 **(2) notify the parent of the eligible student or the emancipated**
 32 **eligible student of the time and place of the hearing; and**

33 **(3) conduct the hearing and proceedings in accordance with**
 34 **IC 4-21.5.**

35 **(b) Not later than thirty (30) days after the hearing, the**
 36 **treasurer of state shall:**

37 **(1) issue a decision:**

38 **(A) ordering:**

39 **(i) permanent closure of the account; and**

40 **(ii) any grant funds be reverted to the state general fund;**

41 **(B) ordering corrective action required to be taken by the**
 42 **parent of the eligible student or the emancipated eligible**



1 student for reinstatement of the account; or
 2 (C) ordering full reinstatement of the account; and
 3 (2) furnish the written decision, including the reasons for the
 4 decision, to the parent of the eligible student or the
 5 emancipated eligible student and all persons who participated
 6 in the hearing.

7 (c) A parent of an eligible student or an emancipated eligible
 8 student may appeal the treasurer of state's decision under this
 9 section.

10 Sec. 6. If the treasurer of state orders an eligible student's
 11 account to be permanently closed, any funds in the account that are
 12 not grant funds deposited into the account by the treasurer of state
 13 under this article must be returned to a parent of the eligible
 14 student or the emancipated eligible student.

15 Sec. 7. The treasurer of state may send notice to the attorney
 16 general or the prosecuting attorney in the county in which the
 17 parent of the eligible student or the emancipated eligible student
 18 resides if the treasurer of state believes a crime has been
 19 committed.

20 Chapter 7. Annual Survey

21 Sec. 1. The treasurer of state shall annually request that a
 22 parent of an eligible student or an emancipated eligible student
 23 who is participating in the program complete a written survey that
 24 solicits the parent's or emancipated eligible student's:

- 25 (1) overall satisfaction with the program; and
- 26 (2) opinion on specific topics and issues relevant to the
 27 effectiveness of the program.

28 Sec. 2. Not later than November 1, 2019, and each November 1
 29 thereafter, the treasurer of state shall annually provide a summary
 30 of the survey administered under section 1 of this chapter to the:

- 31 (1) governor; and
- 32 (2) legislative council in an electronic format under IC 5-14-6.

